

# 2020 NATIONAL INCOME TAX WORKBOOK

CHAPTER 11: BUSINESS TAX ISSUES



## CHAPTER 11 INTRO AND LEARNING OBJECTIVES

p. 361

**Bonus Depreciation – Final Regulations**

**Multilevel Marketing**

**Opportunity Zone Funds**

**New Health Reimbursement Arrangements**

# BONUS DEPRECIATION

p. 362

## TCJA 2017

50% → 100%

9/27/2017

Used Property

*New Final Regulations & Proposed regulations –  
What property qualifies?*

QUALIFIED PROPERTY

p. 230


# Bonus vs Section 179?

Side by side comparison in the Ag Chapter 7

See page 230

## BONUS DEPRECIATION - ELIGIBLE PROPERTY

p. 363

Primary test: Recovery period  **20 years** or less  
(land improvements, parking lots, fences)

Other items qualify that don't meet the 20  
year test:

- Certain computer software
- Water utility property
- Film or television production
- Live theatrical production

# QUALIFIED IMPROVEMENT PROPERTY

p. 363

12/31/17

Leasehold improve  
Restaurant property  
Retail impr property

?

~~GONE!~~

Qualified Improvement  
Property:  
Improvements to:  
***interior of nonresidential  
real property previously  
placed in service by any  
taxpayer***

15 year and bonus

# QUALIFIED IMPROVEMENT PROPERTY

p. 363

12/31/17

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Qualified Improvement  
Property does not include:

- 1. Enlargement**
2. Elevator
3. Internal **structural**  
framework



15 year and bonus

## QUALIFIED IMPROVEMENT PROPERTY

p. 363 & 364

TCJA did **not** specify QIP was 15 year property!

CARES Act (3/27/20) retroactively classified QIP property, acquired in 2018 - 2020, as 15 year property (and bonus)

Rev Proc 2020-25 provides guidance on amending returns or filing a 3115.



## MORNING SESSION - POLLING QUESTION #1

Qualified Improvement Property  
has a 15 year recovery period.

True

False

MORNING SESSION - POLLING QUESTION #1

Qualified Improvement Property  
has a 15 year recovery period.

True

False

## PREVIOUSLY USED PROPERTY

p. 364

Acquired  
qualifying  
used property ↓



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Not used by taxpayer

Not acquired from a  
related party

Cost basis not  
determined by  
reference to the basis  
of other property held  
by the taxpayer  
- 179(d)(3) rules

“USED BY THE TAXPAYER”

p. 364

Doesn't mean  
what it says!!

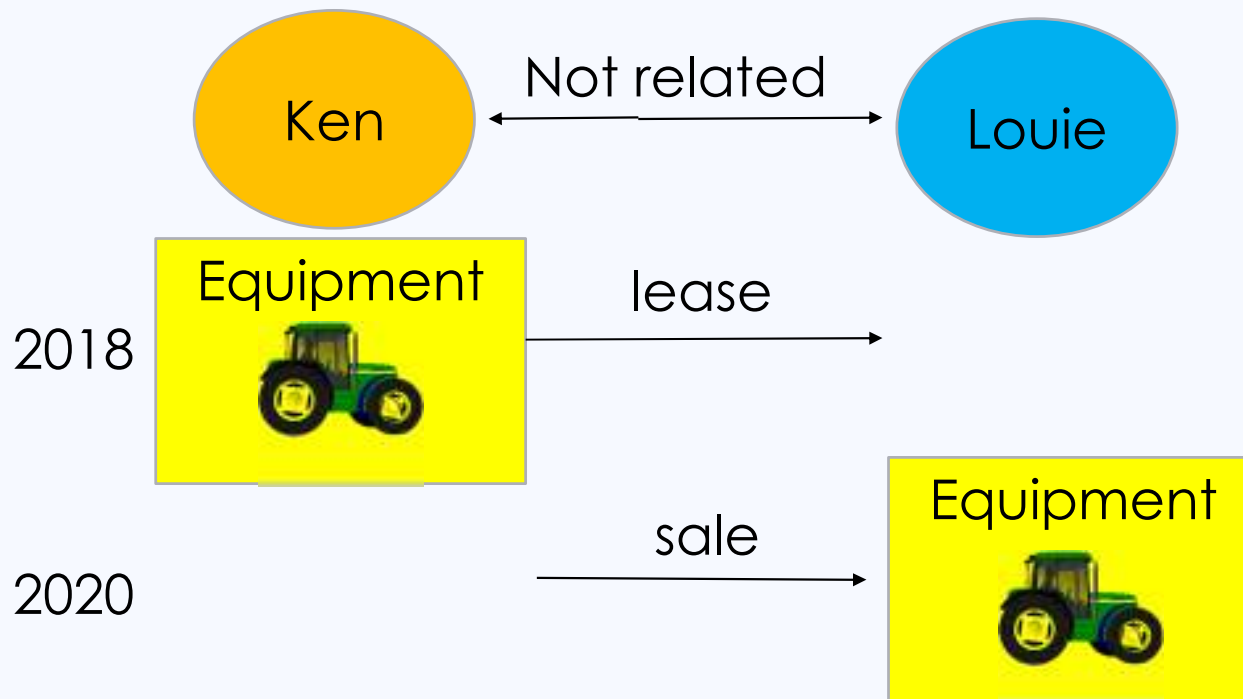


What it really means:

Taxpayer had a **depreciable interest** (only for the previous **5 years**), whether or not depreciation claimed

## EXAMPLE 11.3 PREVIOUSLY LEASED PROPERTY

p. 365



Qualifies for  
bonus.  
**No**  
**depreciable**  
**interest**

## BONUS DEPRECIATION AND PARTNERSHIPS

p. 366

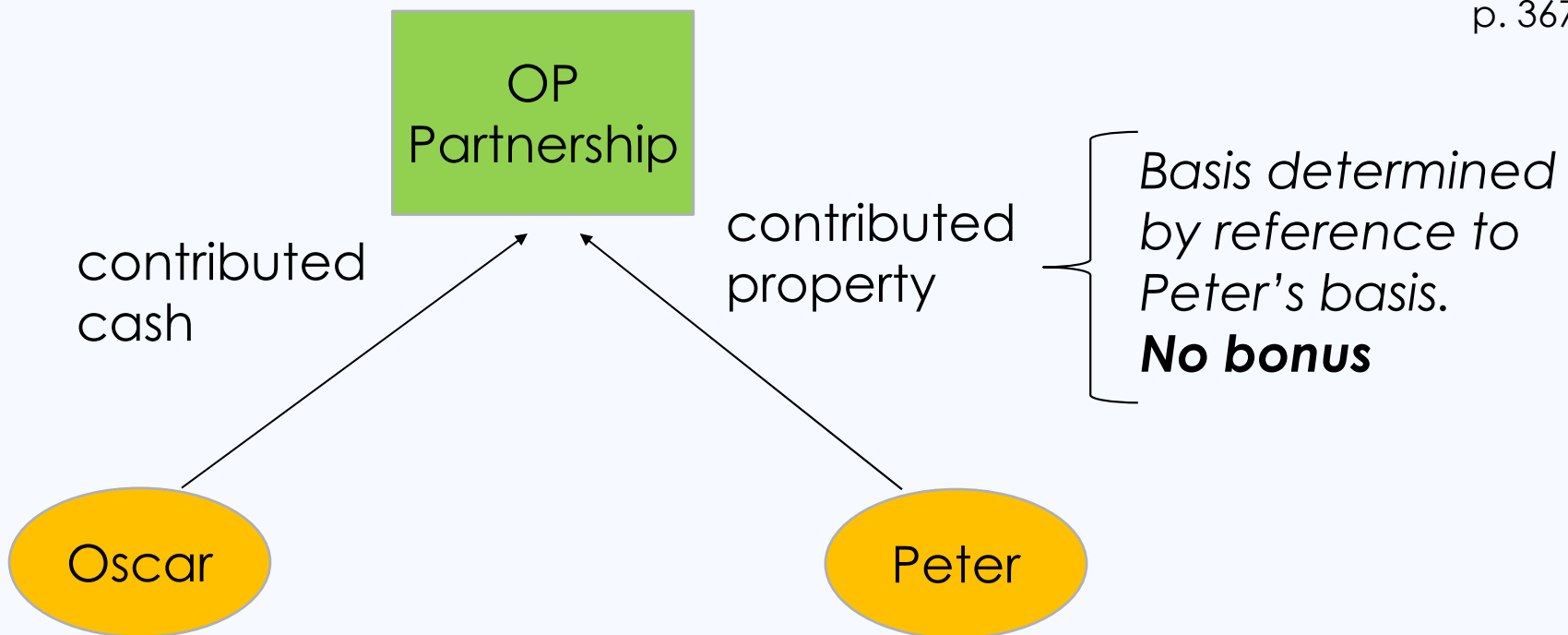
Issues unique to partnerships: **1065**

NOT eligible for bonus:

- Property contributed to a partnership
- Remedial Special Allocations
- Property distributed to a partner
- Basis adjustment under 734(b) – certain partnership distributions (a distribution causing recognition of gain)

# EXAMPLE 11.6 PROPERTY CONTRIBUTED TO A PARTNERSHIP

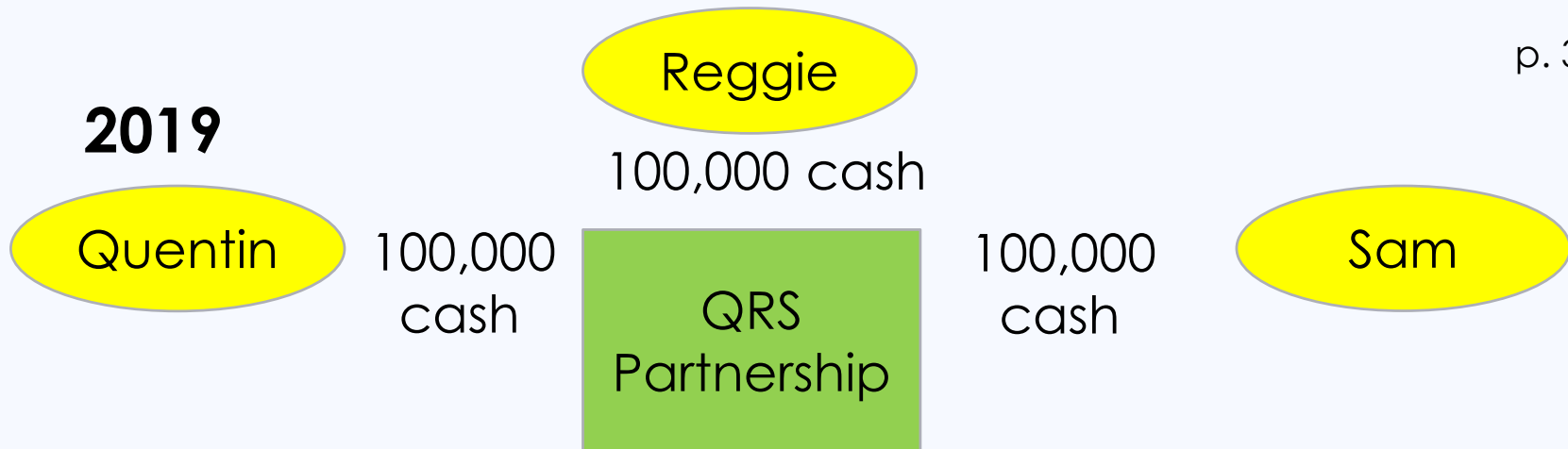
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## EXAMPLE 11.7 PURCHASE OF PARTNERSHIP INTEREST

p. 367

**2019**



Only Asset – retail motor fuels outlet, cost 300,000.

Elected not to claim bonus. Claimed 15,000 depr



# EXAMPLE 11.7 PURCHASE OF PARTNERSHIP INTEREST

p. 367

**2020**

Reggie

Quentin

QRS  
Partnership

Sam

↑ Buys interest  
for 200,000

Outlet now worth 600,000

Timothy

743(b) adjustment:

Outside basis            200,000

Inside basis            (95,000) 100,000-5,000 depr

Qualifies for bonus 105,000

## EXAMPLE 11.9 EQUIPMENT TRADE IN

p. 368

Purchased used drill press	
Cost	10,000
trade in	<u>(2,000)</u>
Boot	8,000

*2 transactions  
for tax purposes*

Sale of trade in:	
Sales price	2,000
Basis	<u>(1,200)</u>
Gain	800

Purchase of new press	10,000
Basis	10,000
Eligible for bonus	

# ELECTING OUT

p. 368

A scan of the 2018 Form 1040 U.S. Individual Income Tax Return. The form is partially filled out, showing various sections for personal information, income, and deductions. The 'Sign Here' section is visible at the bottom left, with a signature line and a date field.

By due date,  
including extensions

## STATEMENT #1

Taxpayer elects  
out of bonus  
depreciation on  
all assets in the 5  
year asset  
property class

Only revoked  
by letter ruling

A scan of Form 1040X, Amended U.S. Individual Income Tax Return. The form is partially filled out, showing various sections for personal information, income, and deductions. The 'Sign Here' section is visible at the bottom left, with a signature line and a date field.

However, automatic 6  
month extension from  
due date, excluding  
extensions, where  
taxpayer may amend  
return

NOT IN BOOK; REV PROC 2020-50 11/6/20 (56 PAGES!)

Provides the rules for making method changes related to elections involving Bonus Depreciation.

## ISSUE #2 – MULTILEVEL MARKETING

p. 369

Discusses the various tax issues encountered by Direct Sellers:

- Different types of income
- Tax treatment of typical expenses

## ISSUE #3 OPPORTUNITY ZONES

p. 380

75 Billion in private investment in first 2 years  
 Economically distressed community  
 List of zones found in Notice 2018-48:

State	County	Census Tract Number	Tract Type	ACS Data Source
Michigan	Isabella	26073940500	Low-Income Community	2011-2015
Michigan	Jackson	26075000600	Low-Income Community	2011-2015
Michigan	Jackson	26075001000	Low-Income Community	2011-2015
Michigan	Jackson	26075001200	Low-Income Community	2011-2015
Michigan	Jackson	26075005500	Low-Income Community	2011-2015
Michigan	Kalamazoo	26077000201	Low-Income Community	2011-2015
Michigan	Kalamazoo	26077000202	Low-Income Community	2011-2015
Michigan	Kalamazoo	26077000900	Low-Income Community	2011-2015
Michigan	Kalamazoo	26077001000	Low-Income Community	2011-2015
Michigan	Kalamazoo	26077001905	Low-Income Community	2011-2015
Michigan	Kalkaska	26079950400	Low-Income Community	2011-2015
Michigan	Kent	26081002600	Low-Income Community	2011-2015
Michigan	Kent	26081002800	Low-Income Community	2011-2015

## TAX DEFERRAL

p. 382

- ★ Elect to defer capital gain on sale to unrelated party
- ★ If, the gain invested in QOF within 180 days of the sale, but some special rules
- ★ Only sales before 12/31/2026

## EXAMPLE 11.22 INVESTMENT IN OPPORTUNITY ZONE

p. 382

Initial basis - Cost less deferred gain. May be zero

Sold investment property	1,200,000
Basis	<u>(700,000)</u>
Gain	500,000

Invested the 500,000 into QOF and elected to defer gain

Basis in QOF is zero

If sold for 450,000 in 2021, recognize 450,000 gain (even though 50,000 economic loss)



## TAX BENEFITS - BASIS ADJUSTMENTS

p. 382

- ★ If investment held at least 5 years, basis increases by 10% of the amount of deferred gains.
- ★ If the investment is held at least 7 years, the basis increased by another 5%. (so 15%)
- ★ If the investment is held at least 10 years, taxpayer may elect to adjust basis to equal the FMV of the investment on the date the investment sold.

## RECOGNITION OF GAIN

### ★ **Inclusion events:**

p. 383

Sale, gift, charitable contribution, transfer to nongrantor trust, transfer to spouse in divorce, abandonment.

(Does not include transfers by death or transfers to a disregarded entity or grantor trust)

### ★ **CLIFF:** must report gain on **12/31/2026!!**

# GAIN RECOGNITION

p. 383

Defer Gain	5 years	7 years	12/31/2026	>10 years
	Increase Basis by 10% of deferred gain	Increase Basis by 15% of deferred gain	Recognize all deferred gain Basis = FMV	Elect to increase basis to FMV when sold

Exclude gain on appreciation after 12/31/26

## MORNING SESSION – POLLING QUESTION #2

If you hold your investment in a Qualified Opportunity Zone Fund for 7 years you can increase your basis by what percentage of the deferred gain?

10%

15%

## MORNING SESSION – POLLING QUESTION #2

If you hold your investment in a Qualified Opportunity Zone Fund for 7 years you can increase your basis by what percentage of the deferred gain?

10%

15%

## ELECTION AND REPORTING

p. 384



Gain is reported as normal on Form 4797, Schedule D and Form 8949



Election to defer gain is on it's own row on Form 8949.

- Part I for short term
- Part II for long term

# EXAMPLE 11.26

p. 385

4/22/95			4/1/20		
	<u>Motel</u>	<u>depr</u>	<u>basis</u>	<u>sale</u>	<u>gain</u>
1245	500,000	-(500,000)	0	500,000	500,000
building	3,000,000	-(2,075,000)	925,000	1,675,000	750,000
land	<u>325,000</u>		325,000	<u>325,000</u>	
	3,825,000			2,500,000	
					7/1/20
Sold rental home					271,795
Basis 500,000 – 128,205 depr					<u>(371,795)</u>
Loss on sale					(100,000)

# EXAMPLE 11.26 FORM 4797 PART 111

p. 387

Form 4797 (2019)

Page 2

**Part III Gain From Disposition of Property Under Sections 1245, 1250, 1252, 1254, and 1255**  
(see instructions)

19	(a) Description of section 1245, 1250, 1252, 1254, or 1255 property:	(b) Date acquired (mo., day, yr.)	(c) Date sold (mo., day, yr.)
A	Motel building	04/22/1995	04/01/2020
B	Motel building components (Section 1245)	04/22/1995	04/01/2020
C			
D			

These columns relate to the properties on lines 19A through 19D. ▶		Property A	Property B	Property C	Property D
20	Gross sales price ( <b>Note:</b> See line 1 before completing.) . . . . .	500,000	1,675,000		
21	Cost or other basis plus expense of sale . . . . .	500,000	3,000,000		
22	Depreciation (or depletion) allowed or allowable . . . . .	500,000	2,075,000		
23	Adjusted basis. Subtract line 22 from line 21. . . . .	0	925,000		
24	Total gain. Subtract line 23 from line 20 . . . . .	500,000	750,000		
25	<b>If section 1245 property:</b>				
a	Depreciation allowed or allowable from line 22 . . . . .	500,000			
b	Enter the <b>smaller</b> of line 24 or 25a. . . . .	500,000			



# EXAMPLE 11.26 FORM 4797 PART 1

p. 386

<b>Part I Sales or Exchanges of Property Used in a Trade or Business and Involuntary Conversions From Other Than Casualty or Theft—Most Property Held More Than 1 Year</b> (see instructions)								
<b>2</b>	<b>(a)</b> Description of property	<b>(b)</b> Date acquired (mo., day, yr.)	<b>(c)</b> Date sold (mo., day, yr.)	<b>(d)</b> Gross sales price	<b>(e)</b> Depreciation allowed or allowable since acquisition	<b>(f)</b> Cost or other basis, plus improvements and expense of sale	<b>(g) Gain or (loss)</b> Subtract (f) from the sum of (d) and (e)	
	Rental house	Various	07/01/2020	271,795	128,205	500,000	(100,000)	
	Motel land	04/22/1995	04/01/2020	325,000	0	325,000	0	
	QOF investment to Form 8949						(750,000)	
<b>3</b>	Gain, if any, from Form 4684, line 39 . . . . .						<b>3</b>	
<b>4</b>	Section 1231 gain from installment sales from Form 6252, line 26 or 37 . . . . .						<b>4</b>	
<b>5</b>	Section 1231 gain or (loss) from like-kind exchanges from Form 8824 . . . . .						<b>5</b>	
<b>6</b>	Gain, if any, from line 32, from other than casualty or theft . . . . .						<b>6</b>	750,000
<b>7</b>	Combine lines 2 through 6. Enter the gain or (loss) here and on the appropriate line as follows . . . . .						<b>7</b>	(100,000)

2.

1.

# EXAMPLE 11.26 FORM 8949

p. 388

**Part II Long-Term.** Transactions involving capital assets you held more than 1 year are generally long-term (see instructions). For short-term transactions, see page 1.

**Note:** You may aggregate all long-term transactions reported on Form(s) 1099-B showing basis was reported to the IRS and for which no adjustments or codes are required. Enter the totals directly on Schedule D, line 8a; you aren't required to report these transactions on Form 8949 (see instructions).

**You must check Box D, E, or F below. Check only one box.** If more than one box applies for your long-term transactions, complete a separate Form 8949, page 2, for each applicable box. If you have more long-term transactions than will fit on this page for one or more of the boxes, complete as many forms with the same box checked as you need.

- (D)** Long-term transactions reported on Form(s) 1099-B showing basis was reported to the IRS (see **Note** above)
- (E)** Long-term transactions reported on Form(s) 1099-B showing basis **wasn't** reported to the IRS
- (F)** Long-term transactions not reported to you on Form 1099-B

1	(a) Description of property (Example: 100 sh. XYZ Co.)	(b) Date acquired (Mo., day, yr.)	(c) Date sold or disposed of (Mo., day, yr.)	(d) Proceeds (sales price) (see instructions)	(e) Cost or other basis. See the <b>Note</b> below and see <i>Column (e)</i> in the separate instructions	Adjustment, if any, to gain or loss. If you enter an amount in column (g), enter a code in column (f). <b>See the separate instructions.</b>		(h) <b>Gain or (loss).</b> Subtract column (e) from column (d) and combine the result with column (g)
						(f) Code(s) from instructions	(g) Amount of adjustment	
	QOF INVESTMENT FROM FORM 4797							750,000
	QOF EIN (XX-XXXXXXX)	09/15/20				Z	(750,000)	(750,000)

1.  
2.

# FORM 8949 - CODE Z

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## Instructions:

earlier in this column		See the instructions for column (g).
You are electing to postpone all or part of your gain under the rules explained in the Schedule D instructions for investments in QOFs	Z	See <a href="#">How To Report an Election To Defer Tax on Eligible Gain Invested in a QOF</a> , later.

# EXAMPLE 11.26 – FORM 8997

p. 389

<b>Form 8997</b> Department of the Treasury Internal Revenue Service	<b>Initial and Annual Statement of                  Qualified Opportunity Fund (QOF) Investments</b> ▶ Go to <a href="http://www.irs.gov/Form8997">www.irs.gov/Form8997</a> for instructions and the latest information.	OMB No. 1545-0123 <b>2019</b> Attachment Sequence No. <b>997</b>
Name Dario Tuscan		Tax identification number (see instructions) XXX-XX-XXXX

Enter the totals from columns (d) and (e) . . . . . ▶

<b>Part II Current tax year capital gains deferred by investing in QOF</b>				
(a) Qualified Opportunity Fund (QOF) EIN	(b) Date QOF investment acquired (MM/DD/YYYY)	(c) Description of interest acquired (For example, 100 shares or 25% interest)	Deferred gain invested in QOF	
			(d) Amount of short-term deferred gain remaining in QOF	(e) Amount of long-term deferred gain remaining in QOF
QOF EIN	9/20/20	6.25% interest		750,000

## ISSUE 4 – NEW HEALTH REIMBURSEMENT ARRANGEMENTS

Background:

p. 392

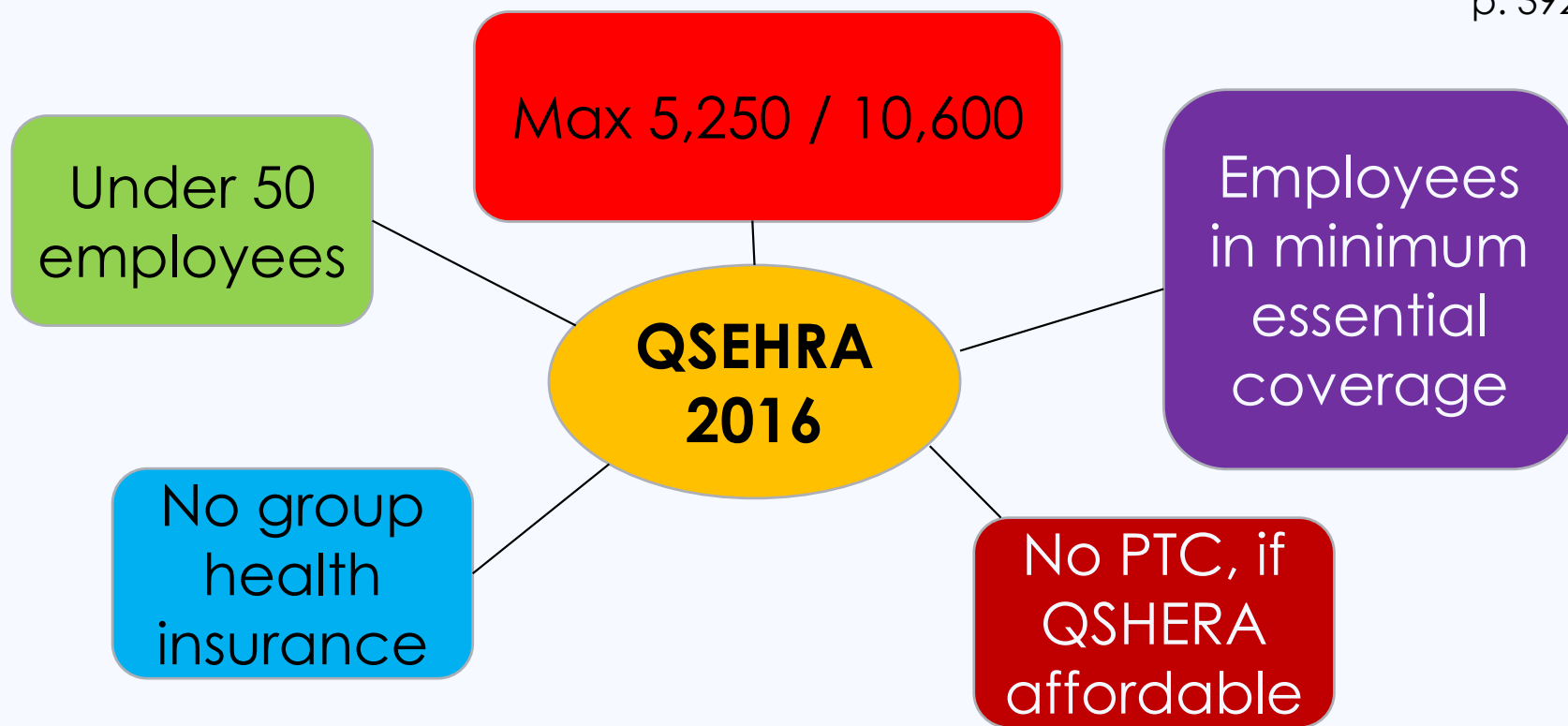
HRA – Health Reimbursement Arrangement

- Employer contributes to employee's plan
- Excluded from income
- Distributions – reimburse qualified medical expenses
- Unused amounts can be carried over

Many employer's ended plans after ACA

# QUALIFIED SMALL EMPLOYER HEALTH REIMBURSEMENT ARRANGEMENTS

p. 392



## EXPANDED HRA OPTIONS

p. 393

**2017-** Executive Order to expand HRAs

- But final regs not issued until 6/20/19

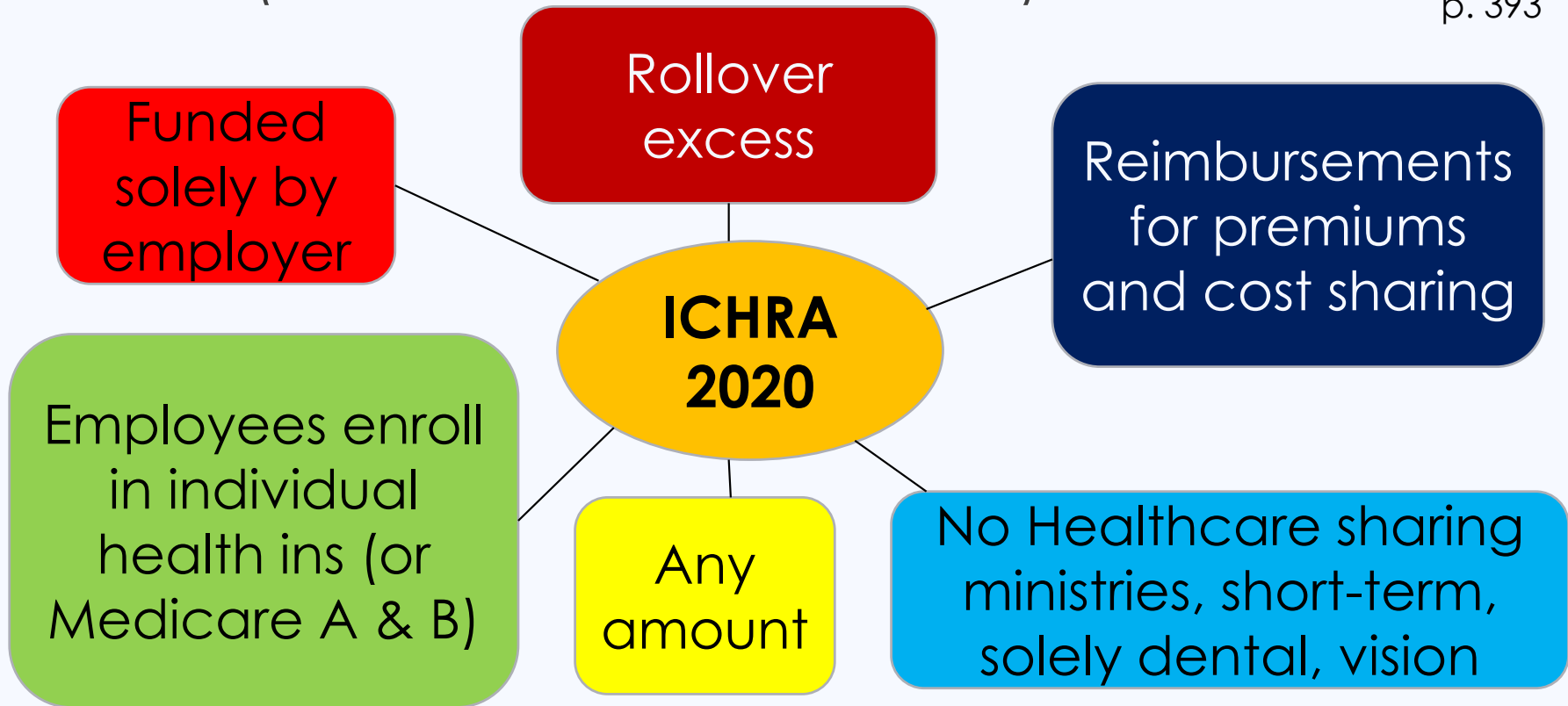
Two new options:

- 1. Individual coverage HRAs (ICHRAs)**
- 2. Expand excepted benefit HRAs**

Help employees purchase healthcare insurance or pay medical expenses on a tax-advantaged basis for plan years beginning in **2020**

# ICHRAS (INDIVIDUAL COVERAGE HRAS)

p. 393





## EXAMPLE 11.27

p. 394

**Lionel** (married, no children) **Lane**

Received insurance  
from employer

Purchased insurance for  
1,200/mo (14,400/year)  
**2020** – employer offers  
plan (not family) up to  
12,000 per year.  
Lane can exclude the  
12,000 from wages

## IMPACT ON THE PREMIUM TAX CREDIT

### Downside!!

p. 394

Affordable ICHRA is offered,  
whether or not the employee  
takes it

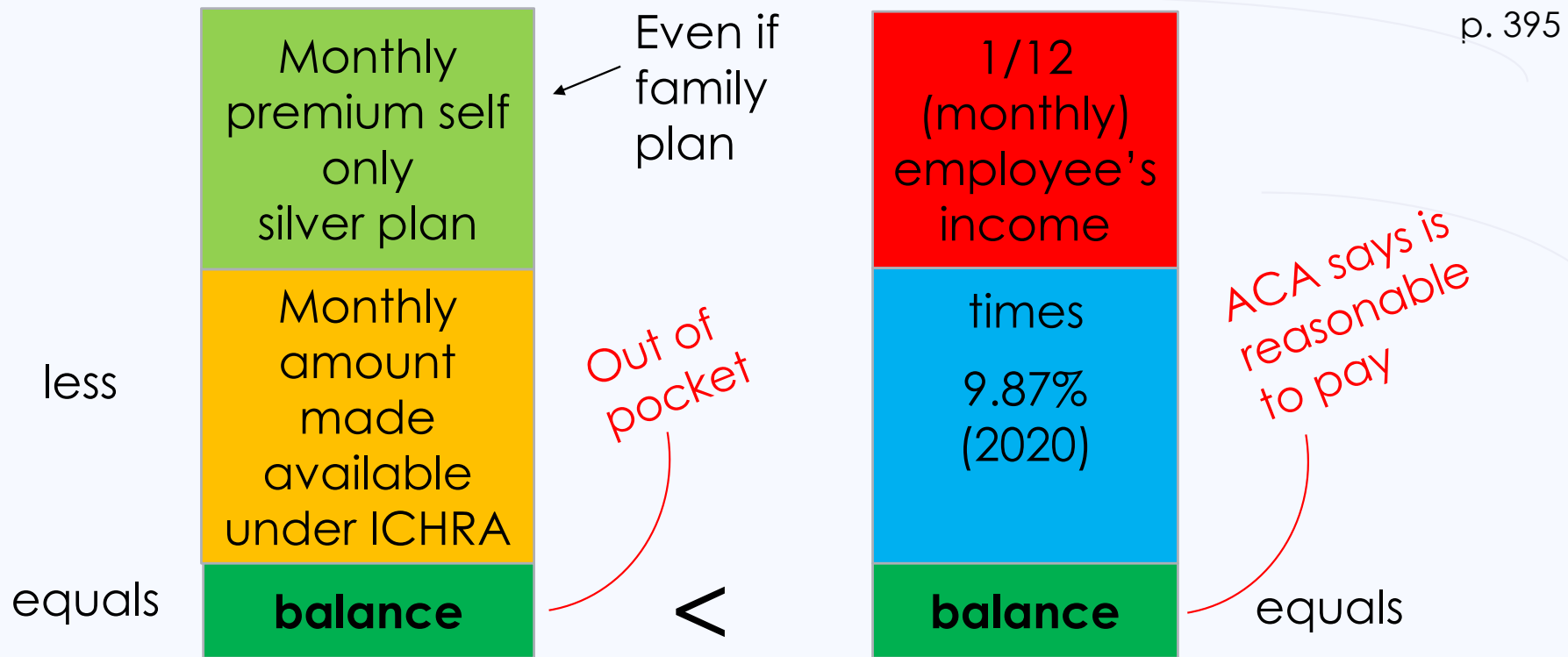
or

Employees chooses an  
ICHRA, regardless whether it is  
affordable

=

No premium  
tax credit!!

# WHAT IS AN AFFORDABLE ICHRA?



## EXAMPLE 11.28 IMPACT ON PTC

Ron and Paula - joint, 2 kids, income 60,000

p. 395

Ron: self-employed

Have been purchasing health insurance through Marketplace and receiving advanced PTC

Paula's employer offers ICHRA

- 6,000 single / 12,000 joint

*Sounds good.  
Is it?*

## EXAMPLE 11.28 IMPACT ON PTC

p. 395

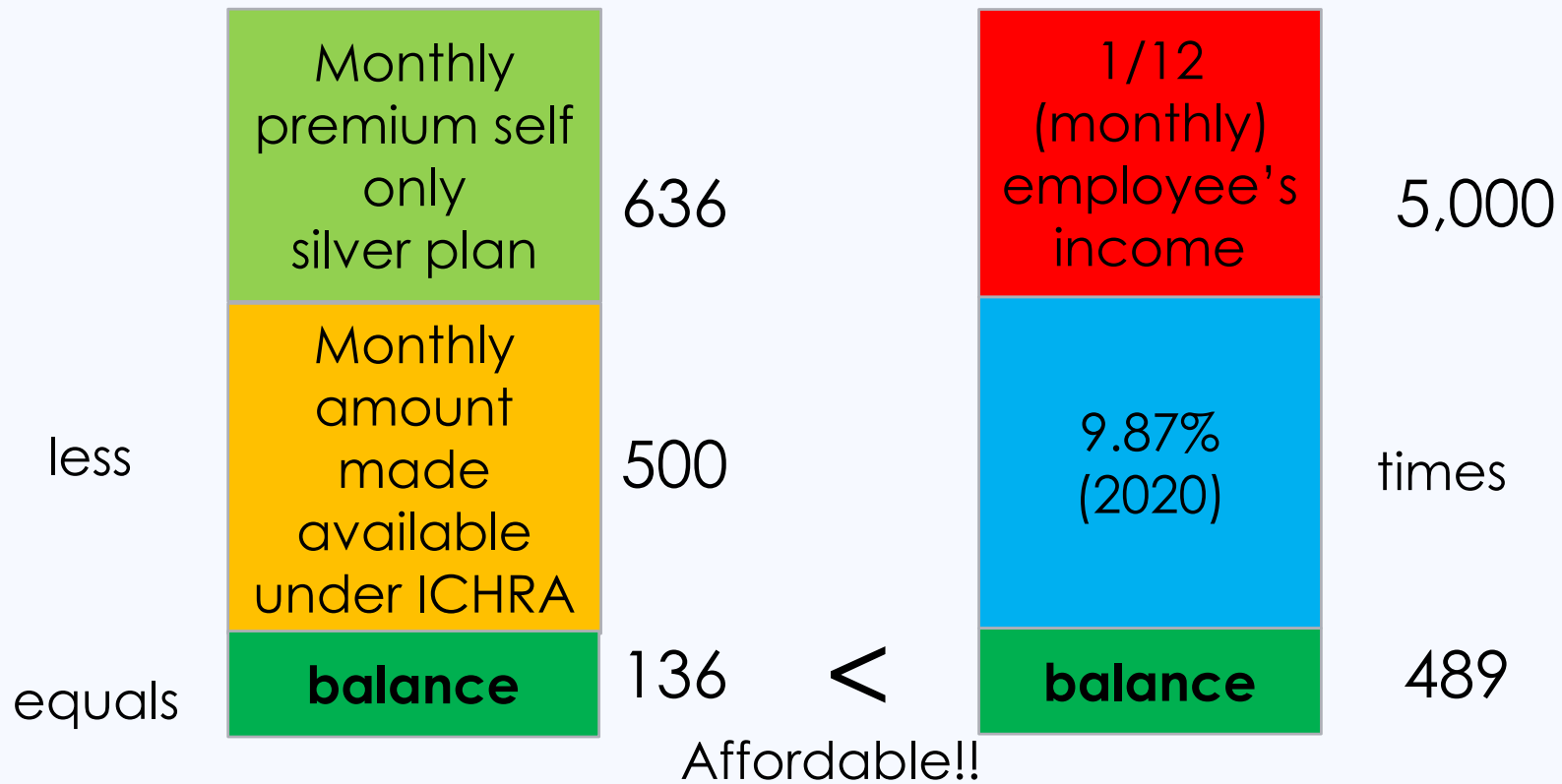
Household income	<u>60,000</u>	=	233%
Poverty level	25,750		

Household income	60,000
.0774 applicable figure instructions Form 8962	<u>x.0774</u>
Amount annual expected to contribute	4,644
Expected to pay, per month	387

Monthly cost of second lowest Silver	3,031
Expected to pay per month	<u>(387)</u>
Monthly advanced PTC	<b>2,644</b>

# EXAMPLE 11-28 AFFORDABLE ICHRA

p. 395



## EXAMPLE 11.28 IMPACT ON PTC

p. 395

Since affordable, Paula is **ineligible** to opt out and get the PTC!

Actual cost of SLCSP for family	3,031
Tax free from ICHRA (12,000 / 12)	<u>(1,000)</u>
Ron and Paula's responsibility	2,031
	(after tax dollars)



## NOTICE TO EMPLOYEES

p. 395 & 396

Impact of the ICHRA on their PTC eligibility

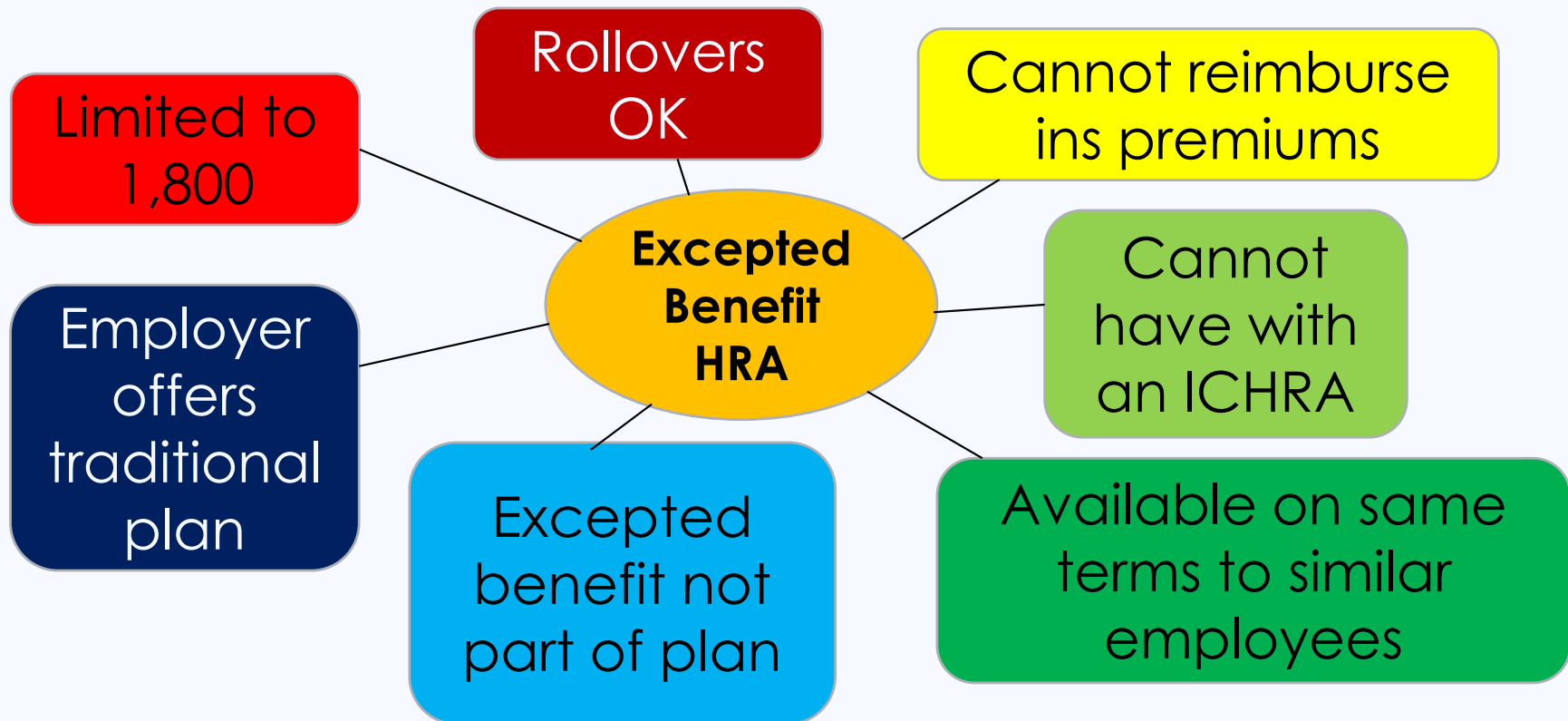
90 days prior to the offer

Sample forms at [www.dol.gov](http://www.dol.gov)



## EXCEPTED BENEFIT HRAS

p. 397



## HEALTH CARE SHARING MINISTRY

p. 397

### 501(c)(3)

Share common set of ethical and religious beliefs

Share medical expenses

Members retain membership after medical condition

In existence since 12/31/1999 and medical expenses shared since then (no new ones?)

Audited annually

## HEALTH CARE SHARING MINISTRY

p. 397 & 398

Proposed Regs – amounts paid for membership **are** payments for medical insurance

Allow HRAs, ICHRA, QSEHRA, excepted benefit HRA to reimburse payments for membership as a medical care expense



Questions are the path to learning